



DEC 27 2007

U.S. DISTRICT COURT

MICHAEL A. CARDOZO  
Corporation Counsel

THE CITY OF NEW YORK  
LAW DEPARTMENT

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December 21, 2007

**BY HAND**

Honorable Harold Baer  
United States District Judge  
United States Courthouse, Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Ahmed Bassett v. City of New York 07-cv-08695 (HB)

I am the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action. For the reasons stated herein, defendant City of New York, respectfully requests an order compelling plaintiff to provide an outstanding release for the unsealing of plaintiff's underlying criminal arrest and an extension of time to respond to the complaint until forty-five days after plaintiff provides us with the requested releases. If Your Honor is so inclined as to grant this request, it is further respectfully requested that the conference presently scheduled for December 27, 2007 be adjourned to a date and time convenient to the Court after issue has been joined. I tried to contact plaintiff's counsel to obtain his position regarding these matters however I was unable to reach him.

Plaintiff brings this action pursuant to 42 U.S.C. §1983 alleging, *inter alia* that on February 3, 2005, he was falsely arrested and subsequently charged with receiving stolen merchandise. According to plaintiff's complaint, on May 18, 2005, the underlying criminal charges against him were dismissed.

Under cover letter dated November 16, 2007, this office sent plaintiff's counsel, Gary Fish, Esq., a release for the unsealing of the arrest and prosecution records pursuant to N.Y.C.P.L. § 160.50. Additionally, on December 11, 2007, this office sent plaintiff's counsel a second release for same. To date, plaintiff has failed to return the executed unsealing releases. Without a properly executed N.Y.C.P.L. §160.50 release, this office cannot access any of the documents from plaintiff's underlying criminal prosecution, including the criminal court file, District Attorney's file, and even our own police records.

This office is expected to file a response on behalf of the City of New York, by December 27, 2007. However, without the requested release our office is unable to secure the underlying documentation necessary to adequately investigate plaintiff's allegations, properly respond to the complaint, or comply with our obligations under Fed. R. Civ. P. 11.

Accordingly, for the reasons set forth herein, defendants respectfully requests that the Court order plaintiff to provide the requested unsealing release and that defendants be given forty-five days after receipt of the releases to respond to the complaint. If Your Honor is so inclined as to grant this request, it is further respectfully requested that the conference scheduled for December 27, 2007 be adjourned to a date and time convenient to the Court after issue has been joined.

I thank Your Honor for considering the within requests.

Respectfully submitted,

*Brooke R.*  
Brooke Birnbaum (BB 8338)  
Assistant Corporation Counsel

cc: Mr. Gary Fish, Esq. (By Fax)

① The TT has until now before January 21 to prepare & mail R.R. the unsealing releases to the D.  
② The TT has 45 days or less until specifically & directly to respond to the complaint 28, or to March 13, 08 2 PM  
③ The PTC will be adjourned to March 13, 08 2 PM  
④ Failing to comply with the result in sanctions & may include dismissal or default.

RECORDED  
*Harold Baer, Jr.*  
Harold Baer, Jr., U.S.D.J.  
12/26/07

Endorsement:

1. The plaintiff has until on or before January 21 to prepare and mail RRR the unsealing release(s) to the defendant.
2. The plaintiff has 45 days or less until specifically February 18, 2008 to respond to the complaint.
3. The PTC will be adjourned to March 13, 2008 2:00 P.M.
4. Failure to comply with 1, 2 or 3 will likely result in sanctions and may include dismissal or default.